In the High Court of Judicature at Madras

Dated:30.06.2006

Coram:

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.339 of 2006

Mrs.Malliga .. Petitioner

vs.

1. The Secretary to the Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George,
   Chennai 600 009.

2. The District Collector cum
   District Magistrate
   Kancheepuram District. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus calling for the records relating to the Detention Order No.BDFGISV.No.11/2006 dated 7.3.2006 passed by the second respondent and set aside the same and direct the respondents to produce the body of detenu Sakthivel alias Sakthi, Son of Dhamodaran aged about 23 years, detenu now confined in Central Prison, Chennai before this Hon'ble Court and set him at liberty forthwith.

For petitioner : Mr.A.Mohan

For respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner by name Malliga, challenges the impugned order of detention dated 07.03.2006, detaining her son as "Goonda" under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (in short"Tamil Nadu Act 14 of 1982).

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2. Heard the learned counsel for the petitioner as well as learned Additional Public Prosecutor for respondents.

3. At the foremost, the learned counsel appearing for the petitioner submitted that there was delay in disposal of the representation of the detenu dated 13.04.2006. The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu dated 13.04.2006 was received on 19.04.2006; remarks were called for on 20.04.2006; remarks were received on 27.04.2006; file was dealt with by Under Secretary on 28.04.2006; Deputy Secretary on 02.05.2006 and finally, the Minister for Prohibition and Excise passed an order on 03.05.2006; the rejection letter was prepared on 10.05.2006; rejection letter was sent to the detenu on 12.05.2006 and the same was served on him on 16.05.2006. Learned counsel for the petitioner submitted that though the Minister has passed an order on 03.05.2006, there is no reason for the delay till 10.05.2006 in preparing the rejection letter. Learned Additional Public Prosecutor submitted that 06.05.2006 and 07.05.2006 were holidays being Saturday and Sunday and 08.05.2006 was declared as holiday due to General Election. If we exclude those three days, we are of the view that the rejection letter was prepared within the permissible time limit of three days. We accept the explanation offered by the learned Additional Public Prosecutor and reject the contention raised by the learned counsel for the petitioner.

4. Yet another contention of the learned counsel for the petitioner is that in view of various infirmities found both in the English and Tamil versions in respect of mentioning the correct police station with reference to crime number concerned, the ultimate order passed by the detaining authority is liable to be quashed on the ground of non-application of mind. In support of the above contention, learned counsel referred to pages 433, 435, 77, 187, 195 and 197 of the paper book supplied to the detenu. Page 433 contains remand order dated 01.02.2006 with reference to Crime No.37 of 2006 of Otteri Police Station. On the other hand, in the translated Tamil version, which is available at page 435, though the crime number has been correctly stated as 37 of 2006, the name of police station is mentioned as Guduvancheri Police Station instead of Otteri Police Station. According to the learned counsel, similar mistake occurred in pages 77, 187, 195 and 197 of the paper book.

5. It is also brought to our notice that the said discrepancies were represented to the detaining authority, who, while sending reply dated 04.03.2006, has stated that the detenu Sakthivel @ Sakthi involved in Crime No.37 of 2006 on the file of Otteri Police Station was arrested by the Inspector of Police, Guduvancheri and remanded to judicial custody. In the counter affidavit the District Magistrate and District Collector, Kancheepuram has stated,

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"10. ... I submit that the Otteri Police Station lies within the jurisdiction of the Inspector of Police, Guduvancheri Circle. I submit that as such, there is no question of different police stations effecting the arrest of the detenu at the same place and time in different Police Station in different crime numbers, when the Inspector of Police Guduvancheri Circle has effected arrest of the detenu in the ground case and in respect of the adverse cases also. ..."

6. It is clear from the above explanation that Otteri Police Station lies within the jurisdiction of the Inspector of Police, Guduvancheri Circle. Though the crime number pertains to Otteri Police Station, in view of the fact that the Inspector of Police, Guduvancheri Circle has the jurisdiction over the Otteri Police Station, some of the documents refer the name of the Inspector of Police, Guduvancheri, who is competent to investigate the matter in issue. In the light of the same, we are satisfied that there is no error or defect as claimed by the counsel for petitioner. Accordingly, we reject the said contention also.

Except the above mentioned contentions, the learned counsel for the petitioner has not pointed out any other error or infirmity. Under these circumstances, we do not find any ground for interference. Consequently, this petition fails and the same is dismissed.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to the Government,Prohibition and Excise Department Government of Tamil Nadu,Fort St. George,Chennai 600 009.

2. The District Collector cum District Magistrate Kancheepuram District.

3.The Public Prosecutor, High Court, Madras.

4.The Joint Secretary to the Government, Public (law and order) Dept. Fort St.George, Chennai-9.

5.The Superintendent, Central Prison, Chennai.

+ one cc to Mr.A.Mohan, Advocate Sr.No.27931.

H.C.P.No.339 of 2006

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